



City of Austin



Office of the City Auditor

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June 10, 2003

To: Mayor and Council Members

From: Stephen L. Morgan, City Auditor

Subject: Report on Capital Improvement Project Audit Clauses

Attached is a report on Capital Improvement Project Audit Clauses. The original scope of this project involved selecting several CIP construction contracts for compliance audits. As a first step, we reviewed the contract documents published by Public Works, which are used by contractors to prepare bids for capital projects and which contain the General Conditions and Supplemental General Conditions that form the contractual terms.

We found that the General Conditions and Supplemental General Conditions did not contain a clause giving the City the right to audit the contractor's records related to the project. We have raised this issue with the Public Works, Law, and Purchasing departments. We have been assured that a revision to the Supplemental General Conditions will include the mandatory provision of an audit clause in all new capital improvement project contracts beginning August 18, 2003.

We believe this practice will not only mitigate risk but provide the authority the City needs to support future contract compliance audits.

A handwritten signature in black ink, reading "Stephen L. Morgan".

Stephen L. Morgan, CIA, CGAP, CFE, CGFM
City Auditor



CAPITAL IMPROVEMENT PROJECT CONTRACT CLAUSES

Omission of an audit clause in capital improvement project contracts is a major risk that the City needs to address.

The City Council approved a contract compliance audit of a capital improvement project as part of the City Auditor's annual work plan. However, a review of the contract documents for several City construction contracts revealed that they did not contain an audit clause.

Most past and current capital improvement project contracts do not have an audit clause. We reviewed 10 capital improvement project (CIP) contract "conditions" documents dating back to 1997 and did not find an audit clause in any of them. The total original value of these contracts was \$116, 967,789. However, we also checked four CIP contract "conditions" documents (over \$12 million original value) for construction projects at Austin Bergstrom International Airport (ABIA) and all contained an "inspection of records clause" that is essentially an audit clause. The Federal Aviation Administration requires the inclusion of this clause in all contracts involving federal funds.

The documents under review included the City's General

Conditions dating back to 1994 and the Supplemental General Conditions dating back to 1996. No audit clause was found in any of these versions.

Other cities and governmental entities have a variety of audit clauses included in their construction contracts.

We requested information from 16 other entities and received 10 responses. Each of the entities includes an audit clause in its general or supplemental conditions for construction contracts. See Exhibit 1, which lists the entities that responded.

Exhibit 1

ENTITY	AUDIT CLAUSE
Arlington, TX	Y
Corpus Christi, TX	N
Dallas, TX	Y
El Paso, TX	Y
Ft. Worth, TX	Y
Houston, TX	Y
Phoenix, AZ	Y
Jacksonville, FL	Y
Kansas City, MO	Y
Portland, OR	Y

Public Works has drafted an audit clause for inclusion in its Supplemental General Conditions.

In the near future, Public Works will issue a revision of the Supplemental General Conditions that will include a "comprehensive right to audit" clause. This section will include the right to obtain and audit all pertinent records for a period of three years after final payment. In addition, the general contractor will be required to include this clause in all subcontracts.

This work was done in accordance with Chapter 3 of the generally accepted government auditing standards.

Recommendation:

The Director of Public Works should expedite the inclusion of the audit clause in the Supplemental General Conditions and state unequivocally that all capital improvement project contracts must contain the clause.

Management Response:

The Department concurs with the recommendation and will implement a revision to the Supplemental General Conditions to provide for the mandatory inclusion of an "Owners Right to Audit" provision in all new capital improvement project construction contracts no later than August 18, 2003.

**Office of the City Auditor
Austin, Texas**

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A hard copy of this report may be requested, or you may download a copy in PDF format, from our website at <http://www.ci.austin.tx.us/auditor>. You may also request a copy from our office or email us at oca_auditor@ci.austin.tx.us.

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